

ESTTA Tracking number: **ESTTA245222**Filing date: **10/27/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Hayward Baker Inc.
Granted to Date of previous extension	10/25/2008
Address	1130 Annapolis Road, Suite 202 Odenton, MD 21113-1635 UNITED STATES

Attorney information	Royal W. Craig OBER/KALER 120 E. Baltimore Street Baltimore, MD 21202-1643 UNITED STATES rwcraig@ober.com
----------------------	--

Applicant Information

Application No	77271636	Publication date	08/26/2008
Opposition Filing Date	10/27/2008	Opposition Period Ends	10/25/2008
Applicant	Geopier Foundation Company, Inc. Suite 300 5871 Glenridge Drive Atlanta, GA 30328 UNITED STATES		

Goods/Services Affected by Opposition

Class 037. First Use: 2000/01/01 First Use In Commerce: 2000/01/01 All goods and services in the class are opposed, namely: Construction of civil engineering structures, namely, soil and subsurface improvement structures for support of buildings and other commercial, industrial, residential, and transportation-related structures
Class 042. First Use: 2000/01/01 First Use In Commerce: 2000/01/01 All goods and services in the class are opposed, namely: Engineering and design services for construction of civil engineering structures, namely, soil and subsurface improvement structures for support of buildings and other commercial, industrial, residential, and transportation-related structures

Grounds for Opposition

Genericness	Trademark Act section 23
-------------	--------------------------

Attachments	Hayward Baker opposition to RAP 2.pdf (4 pages)(13560 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Royal W. Craig-jmh/
Name	Royal W. Craig-jmh
Date	10/27/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No.	77/271,636
Filed:	September 5, 2007
Mark:	“RAMMED AGGREGATE PIER”
Published in the Official Gazette:	August 26, 2008

Hayward Baker, Inc.

Opposer,

v.

Geopier Foundation Company, Inc.

Applicant.

Opposition No: _____

NOTICE OF OPPOSITION

In the matter of Application Serial No. 77/271,636 (“Application”), filed September 5, 2007, for registration of the mark RAMMED AGGREGATE PIER (“Applicant’s Mark”), by Geopier Foundation Company, Inc. (“Applicant”), covering:

Construction of civil engineering structures, namely, soil and subsurface improvement structures for support of buildings and other commercial, industrial, residential, and transportation-related structures in International Class 37; and

Engineering and design services for construction of civil engineering structures, namely, soil and subsurface improvement structures for support of buildings and other commercial, industrial, residential, and transportation-related structures in International Class 42

(collectively, “Applicant’s Services”). Application published for opposition in the USPTO Official Gazette on August 26, 2008. Opposer Hayward Baker, Inc. (“Opposer”) believes that Opposer will be damaged by such registration, and hereby opposes the registration of Applicant’s Mark.

The grounds for the opposition are as follows:

1. Opposer is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 1130 Annapolis Road, Suite 202 Odenton Maryland 21113-1635.
2. Opposer is the owner and operator of one of the United States' leading specialty geotechnical engineering construction firms and provides engineering, design and construction services for various civil engineering structures.
3. Applicant is a corporation organized and existing under the laws of the State of Georgia, with a principal place of business located at 5871 Glenridge Drive, Suite 300, Atlanta, Georgia, 30328.
4. The term "rammed aggregate pier", sometimes referred to simply as "RAP", is primarily understood throughout the geotechnical construction industry as the common or class name for a particular engineering soil and subsurface improvement structure (as well as the method of constructing such structure) for support of buildings and other commercial, industrial, residential, and transportation-related structures utilized in soft and/or weak soil whereby a pier shaft is drilled, and then crushed aggregate is rammed into the pier shaft to improve the stability of the pier.
5. The term "rammed aggregate pier" is widely used throughout the geotechnical construction industry, including in various technical papers and promotional construction literature, to refer generically to the rammed aggregate pier structure and method referred to in Paragraph 4 above.
6. Applicant itself has used the term "rammed aggregate pier" in technical papers,

patent applications and promotional construction literature to refer generically to the rammed aggregate pier structure and method referred to in Paragraph 4 above.

7. As shown by the use described in Paragraphs 4, 5 and 6 above, the term “rammed aggregate pier” is the primary common or class name and term of art utilized within the geotechnical construction industry to refer generically to the rammed aggregate pier structure and method referred to in Paragraph 4 above.
8. The phrase “rammed aggregate pier” is therefore generic or highly descriptive for the rammed aggregate pier structure and method referred to in Paragraph 4 above.
9. Applicant’s Services specifically describe the rammed aggregate pier structure and method referred to in Paragraph 4 above.
10. Applicant’s Mark, when used in conjunction with Applicant’s Services, is therefore generic or highly descriptive of Applicant’s Services, and Applicant’s Application should not be allowed to pass to registration.
11. Opposer uses or has a bona fide intention to use the terms “rammed aggregate pier” and “RAP” to refer generically to its rammed aggregate pier structure and method within Opposer’s business.
12. Registration by Applicant of the phrase “rammed aggregate pier” will cause economic harm to the Opposer in that Opposer will be prohibited from using the primary common or class name and term of art utilized within the geotechnical construction industry to identify and describe the rammed aggregate pier structure and method referred to in Paragraph 4 above in the field in which Opposer’s Services are provided.

WHEREFORE, Opposer Hayward Baker, Inc. respectfully requests that the opposed Application, Serial No. 77/271,636, be rejected and that registration for Applicant's Mark be refused.

Dated this 27th Day of October 2008.

RESPECTFULLY SUBMITTED,
Hayward Baker, Inc.

BY: /Royal W. Craig-jmh/
Royal W. Craig, Esq.
E. Scott Johnson, Esq.
Jonathan M. Holda, Esq.
Ober Kaler
120 E. Baltimore Street
Baltimore, Maryland
Phone: 410-347-7380
Fax: 443-347-7580

Attorneys for Opposer
Hayward Baker, Inc.